



S/N 10/004,623

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-------------|--|-----------------|-------------------|
| Applicant: | BURFEIND ET AL. | Examiner: | Taylor, Victor J. |
| Serial No.: | 10/004,623 | Group Art Unit: | 2863 |
| Filed: | December 3, 2001 | Docket No.: | 14305.6USC1 |
| Title: | GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA NATURAL PHENOMENOLOGICAL INFORMATION | | |

CERTIFICATE UNDER 37 CFR 1.10

'Express Mail' mailing label number: EV322887254US

Date of Deposit: December 23, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service under 37 CFR 1.10 on the date indicated above and is addressed to the Mail Stop Petition, Commissioner of Patents and Trademarks, Alexandria, Virginia 22313-1450.

By:

Name: Teresa Anderson

DECLARATION OF NICHOLAS P. JOHNS

I, Nicholas P. Johns, declare as follows:

1. I am a registered patent attorney and an associate at the law firm of Merchant & Gould P.C., in Minneapolis, Minnesota. My registration number is 48,995.
2. I presently prosecute the above-captioned application for Digital Cyclone, Inc. ("Digital Cyclone").
3. The above-captioned application was filed by the Applicant on December 3, 2001, via legal counsel at Schwegman, Lundberg, Woessner & Kluth ("Schwegman"). This application is assigned to Digital Cyclone, Inc. ("Digital Cyclone").
4. On or about February 28, 2003, Digital Cyclone transferred all of its files from Schwegman to Merchant & Gould, where this case is now being prosecuted.
5. On March 10, 2003, papers were filed with the U.S.P.T.O. granting Merchant & Gould power of attorney in this matter, and directing future correspondence to Merchant & Gould.

6. On March 24, 2003, a first Office Action was mailed. According to the cover sheet associated with the Office Action, the Office Action was mailed to Schwegman.

7. At some point following receipt of the Office Action by Schwegman, the Office Action was received by Merchant & Gould, although I am not certain of when this occurred.

8. At Merchant & Gould, correspondence from the U.S.P.T.O. is routed through a docketing department and is entered into a computerized docketing system to ensure timely response.

9. Because the Office Action was forwarded to Merchant & Gould through an intermediary, it was not identified as correspondence from the U.S.P.T.O., and was never entered into the docketing system. For this reason, Applicant unintentionally failed to respond to the Office Action within the permissible six-month period.

10. At the time the Notice of Abandonment was received, I examined the file jacket, and the Office Action was not found therein. Docket records show that the Office Action was never received.

11. On September 25, 2003, attorneys from Merchant & Gould and representatives from Digital Cyclone attended a meeting. Mr. Gregson and I were present at this meeting.

12. During the meeting of September 25, 2003, strategy regarding Digital Cyclone's patent portfolio was discussed. The above-captioned application figured prominently in that discussion.

13. At no point during the meeting did any person state or suggest in any way that the above-captioned application was abandoned or even at risk of abandonment.

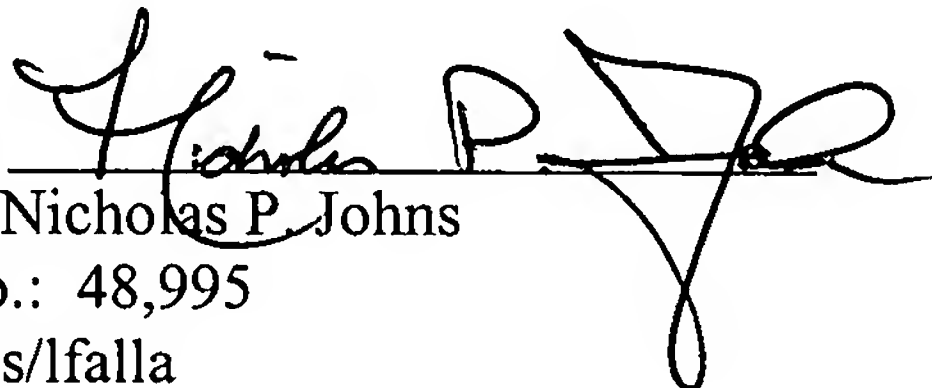
14. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that

statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903
612.332.5300

Dated: 23 Dec. 2003

Signed: 
Name: Nicholas P. Johns
Reg. No.: 48,995
NPJohns/lfalla



S/N 10/004,623

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Applicant: | BURFEIND ET AL. | Examiner: | Taylor, Victor J. |
| Serial No.: | 10/004,623 | Group Art Unit: | 2863 |
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CERTIFICATE UNDER 37 CFR 1.10

'Express Mail' mailing label number: EV322887254US

Date of Deposit: December 22, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service under 37 CFR 1.10 on the date indicated above and is addressed to the Mail Stop Petition, Commissioner of Patents and Trademarks, Alexandria, Virginia 22313-1450.

By: Teresa Anderson

Name: Teresa Anderson

DECLARATION OF RICHARD J. GREGSON

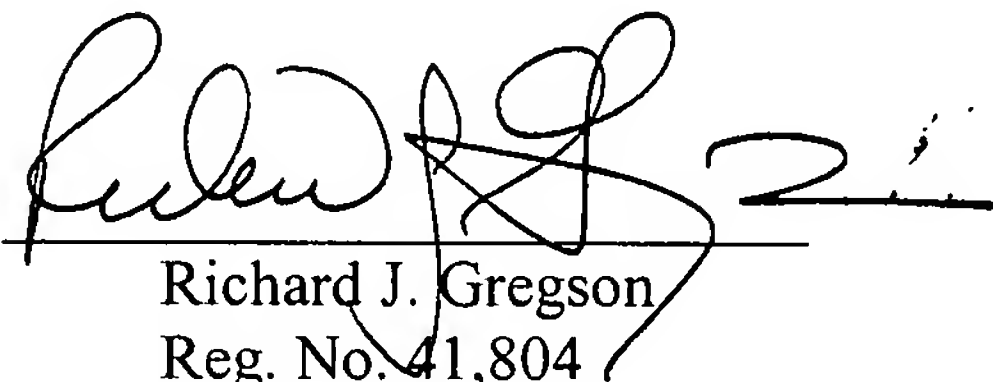
I, Richard J. Gregson, declare as follows:

1. I am a registered patent attorney and was an associate at the law firm of Merchant & Gould P.C., in Minneapolis, Minnesota, until September 30, 2003. My registration number is 41,804.
2. Until my departure from Merchant & Gould, I prosecuted the above-captioned application for Digial Cyclone, Inc. ("Digital Cyclone").
3. On July 9, 2003, I conducted a telephone interview of the Examiner assigned to the above-captioned application, Victor J. Taylor.
4. During my interview of Mr. Taylor, the topic of how Digital Cyclone intended to proceed arose. I informed Mr. Taylor that I would have to discuss this matter with the client. Further, I stated that Digital Cyclone held several related patent applications, and that the response in the above-captioned application needed to be determined in light of issues in the other applications.

5. At no point during my telephone interview did I state or suggest that Digital Cyclone intended to abandon the application or fail to respond to the Office Action in question in this matter.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such false statements may jeopardize the validity of the application or any patent issued thereon.

18 Dec 2003
Date

Signed: 
Richard J. Gregson
Reg. No. 41,804

S/N 10/004,623

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-------------|--|-----------------|-------------------|
| Applicant: | BURFEIND ET AL. | Examiner: | Taylor, Victor J. |
| Serial No.: | 10/004,623 | Group Art Unit: | 2863 |
| Filed: | December 3, 2001 | Docket No.: | 14305.6USC1 |
| Title: | GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA NATURAL PHENOMENOLOGICAL INFORMATION | | |

CERTIFICATE UNDER 37 CFR 1.10

'Express Mail' mailing label number: EV322887254US

Date of Deposit: December 02, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service 'Express Mail Post Office To Addressee' service under 37 CFR 1.10 on the date indicated above and is addressed to the Mail Stop Petition, Commissioner of Patents and Trademarks, Alexandria, Virginia 22313-1450

By:

Name: Teresa Anderson

**DECLARATION OF JODI GANDEL-KLEIN IN SUPPORT OF PETITION
TO WITHDRAW HOLDING OF ABANDONMENT**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Jodi Gandel-Klein, declare and state:

1. I am the Docketing Supervisor for Merchant & Gould P.C., the law firm prosecuting the above-referenced patent application. I have been Docketing Supervisor since November 17, 1997.
2. I am responsible for overseeing all incoming Patent and Trademark Office communications and oversee those responsible for seeing that these communications are properly docketed and entered into our computerized docketing system.
3. Incoming mail received by the firm is sorted into correspondence that may require docketing and correspondence that does not require docketing. The correspondence that may

require docketing is further distinguished between correspondence from the Patent and Trademark Office and other correspondence. After the incoming mail has been date stamped to show date of receipt, a member of the firm's docketing department retrieves the mail that may require docketing and brings it to the docketing department. The appropriate personnel then docket the correspondence.

4. If such an Office Action had been received, the communication would have been docketed by entering into the computerized docket system the date the Office Action was mailed. The computerized docket system would then calculate the due dates for response to the Office Action up to the six month statutory deadline. The first page of the Office Action would then be initialed by the person docketing the Office Action to indicate that it had been docketed and forwarded to the attorney responsible for the patent application for further action, e.g., reporting to the client, etc.

5. I have reviewed the records in the firm's docket system and find no entry for the Office Action for this application, nor any other evidence that would suggest that the Office Action actually was received by the firm.

6. In view of the above, I believe that the Office Action for this application was never delivered to the docketing department for docketing.

7. The docket record for U.S. Patent Application Serial No. 10/004,623 is enclosed herewith as Exhibit A.

8. I declare that all statements made herein of my own knowledge are true and that all statements made on information belief are believed to be true; and further that these statements were made with knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18, of the United States Code and that such willful, false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

Dated: Dec 23, 2003

By: Jodi Gandel-Klein
Jodi Gandel-Klein

DEC 22 2003
PATENT & TRADEMARK OFFICE

PCMaster v3.03.02 - Merchant & Gould - [Patent]

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Docket Number: 14305.0006USC1
Country: United States
Case Type: Regular
Relation Type: Continuation
Filing Type: National
Filing Number: C1

Attorney: EGS - ERIK G SWENSON
Attorney #2: NPJ - NICHOLAS P. JOHNS
Client: DIGITAL CYCLONE, INC.
Assignee: DIGITAL CYCLONE, INC.
Previous Owner:
Client Reference:

GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA NATURAL PHENOMELOGICAL

| Inventors | Licenses | Add'l Info | Related Id | Title | Remarks |
|----------------------|--------------------|----------------|-----------------|---------------------|-----------|
| Filing Data | Related Party Info | Actions | Client Info | Expenses | Ext Files |
| Action | Action Due Date | Completed Date | Action Notes | Responsible Atty #1 | |
| Published | 02/13/2001! | 02/13/2001 | | | |
| IDS DUE | 03/03/2002! | 03/03/2002 | SUPPL IDS FILED | | |
| CLM PRIORITY-119/120 | 04/03/2002! | 04/03/2002 | | | |
| STATUS | 04/11/2003 | 04/11/2003 | | | |
| Status/Address Check | 10/11/2003 | 09/30/2003 | | | |
| ▶ REVIVE APPLN/PTA | 11/24/2003! | 11/24/2003 | SEE NOT OF ABAN | | |
| REVIVAL 6 MO | 03/24/2004! | | | | |
| Status/Address Check | 04/11/2004 | 10/01/2003 | | | |
| FINAL REVIVAL | 09/24/2004! | | | | |
| TRANSFER | | | | | |
| Small Entity Status | | | 03/18/2003 | | |

Created: 03/11/2003 Updated: 11/24/2003 3:38 PM By: HNK

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EXHIBIT
A



PCMaster v3.03.02 - Merchant & Gould - [Patent]

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Docket Number14305.0006USC1

CountryUnited States

Case TypeRegular

Relation TypeContinuation

Filing TypeNational

Filing NumberC1

AttorneyEGS - ERIK G SWENSON

Attorney #2NPJ - NICHOLAS P. JOHNS

ClientDIGITAL CYCLONE, INC.

AssigneeDIGITAL CYCLONE, INC.

Previous Owner

Client Reference

GENERATION AND DISTRIBUTION OF PERSONALIZED MULTIMEDIA NATURAL PHENOMEOLOGICAL

| Inventors | Licenses | Add'l Info | Related Id | Title | Remarks |
|--------------------|----------------------|---------------------|-------------|----------|-----------|
| Filing Data | Related Party Info | Actions | Client Info | Expenses | Ext Files |
| Status | Filed | First Filing Date | 08/13/1999 | | |
| Sub Status | Pending | Parent Filing Date | 08/13/1999 | | |
| Parent Country | | Parent Grant Date | | | |
| Parent Number | | Ind. Claims\Designs | | | |
| Total Claims | | Filing Date | 12/03/2001 | | |
| Application Number | 10/004623 | Issue Date | | | |
| Patent Number | | Publication Date | | | |
| Publication Number | | Expiration Date | | | |
| Assigned | | Tax Base Date | | | |
| Convention Type | | Next Tax Date | | | |
| Responsible Office | Minneapolis/St. Paul | | | | |

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